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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,869	07/10/2000	Giancarlo Granata	FMCV0113PUS/199-1623	9855

22045 7590 06/09/2004

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EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/612,869

Applicant(s)

GRANATA ET AL.

Examiner

Hai Vo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 14-17, 22-24, 28-31, 35, 36, 41 and 42 is/are rejected.
- 7) ☒ Claim(s) 18-20, 25-27, 32-34 and 37-40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 14-16, 22-24, 28-31, 35, 36, 41 and 42 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The impregnable layer comprising a porous material and the non-impregnable layer comprising an elastomeric foam-type material are critical or essential to the practice of the invention. As the specification makes it clear that the nature of the impregnable layer and the non-impregnable layer is critical for the invention to function as intended (page 5 lines 31-32 and page 6, lines 13-15 of Applicant's specification), the enablement rejection based on the ground that a disclosed critical limitation is missing from a claim should be made. See MPEP 2164.08 (c).
3. Claim 41 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Support for the recitation " the pad is dimensionally smaller than the substrate" is found nowhere in Applicant's specification.

Claim Rejections - 35 USC § 102

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Groendal et al (US 5,935,364). Since the claims can be rejected under 102(a) or 102(e) as being anticipated by Groendal et al, the examiner confirms that the claims are now preferably rejected under 102(e) instead in the Office Action. The art rejections over Groendal have been maintained for the following reasons. Applicants argue that it is improper and incredulous to state that the "pre-formed" recited in claim 14 is irrelevant because it is one of the most basic propositions that each limitation must be considered and afforded patentable weight. While it is true each

limitation is considered, it appears that any product comprising a rigid substrate, a cover skin, and a composite pad of a non-impregnable layer and an impregnable layer reads on the claimed subject matter and therefore the limitation "pre-formed" does not further defined the claimed product. It is noted that the presently claimed molded panel can be produced by two different approaches. In the first approach, the non-impregnable layer and the impregnable layer are laminated to form a preformed composite pad and then the preformed composite pad is bonded to the substrate to form a molded panel. In the second approach, the non-impregnable layer, the impregnable layer and the substrate are molded together to form a molded panel. These two approaches for making such a molded panel are in no doubt distinct from each other; however, there would be no structural differences between the two products resulted from two different approaches. Therefore, the examiner maintains that the phrase "pre-formed" composite pad or "after-formed" composite pad do not patentably distinguish the product claims because the final product would be the same. Applicant argues that Groendal does not teach a unitary pad, but an arrangement of separate, distinct and unconnected layers adjacent to one another. These separated layers do not become connected until after the application of heat. The arguments are not commensurate in scope with the claims as no "unitary pad" is presently claimed. Further, the claims are directed to a final product, not an intermediate product as argued by Applicant, therefore, the presently claimed subject matter does not exclude Groendal since the molded panel of Groendal panel is structurally the same as that of the claimed invention. The panel of Groendal

comprises a rigid substrate, a composite pad and a cover skin wherein the composite pad is a combination of a foamed cushion layer and the topping layer of a low density polyurethane foam. Groendal teaches that all the components thereof are held together in the mold. It is believed that the moment just right before the upholstered article is formed, a foamed cushion layer and a topping layer together are considered as a preformed composite in the mold. Accordingly, Groendal broadly teaches the "preformed" composite pad or the "unitary pad" as recited in the claims. Applicant argues that Groendal does not teach an automobile interior molded panel but an upholstered article. However, it has been held that a recitation with respect to the manner in which a claimed automobile interior molded panel is intended to be employed does not differentiate the claimed automobile interior molded panel from a prior art upholstered article satisfying the claimed structural limitations. **Ex parte Masham**, 2 USPQ2d 1647 (1987).

6. Claims 14, 36 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Landau (US 3,593,848). Landau teaches a foam covered metal coil for use in motor vehicle components comprising a rigid metal substrate 13; a preformed film 36/foam 32 laminate and a clear coating film disposed over and bonded to the metal substrate and the film/foam laminate (column 10, line 66 to column 11, lines 1-15, column 4, lines 7-10, claim 8). The film corresponds to the claimed non-impregnable layer while the foam corresponds to the claimed impregnable layer. It is the examiner's position that Landau anticipates the claimed subject matter.

7. Claims 14, 36 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulze-Kadelbach et al (US 5,514,458). Schulze-Kadelbach teaches that a paneling member for use in the interior of an automotive vehicle comprises a support layer 1, a preformed laminate of the polypropylene foam layer 6, a polypropylene decorative film 4, and a sealing layer 8 (figure 2, column 4, lines 53-67). The decorative film corresponds to the claimed non-impregnable layer while the polypropylene foam corresponds to the claimed impregnable layer. It is the examiner's position that Schulze-Kadelbach anticipates the claimed subject matter.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
9. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groendal et al (US 5,935,364) in view of Fisher (US 4,850,578). Groendal discloses the cushion layer made of a skinned foamed polyurethane bun having a density of 2.5 pcf (column 4, line 43). Groendal does not specifically disclose the cushion layer being reticulated and having the pore distribution of 1 to 100 pores per inch. Fisher supplies the missing feature. Fisher teaches the reticulated foam sheets being produced from buns of foam material, from which each individual sheet is cut as a layer (column 3, lines 28-30). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have motivated by the

desire to employ a reticulated foam as the cushion layer because the reticulated foam is known manufactured from the cut foam. It appears that the pore distribution is determined by the foam density; and Groendal's cushion layer has the density meeting the specific range as required by the claims. Therefore, it is not seen that the cushion layer would have the pore distribution outside the claimed range for attaining the foam density within the claimed range.

10. The claim objections have been overcome by the present amendment.

Allowable Subject Matter

11. Claim 21 is allowed. None of the prior art discloses or suggests an automobile interior molded panel comprising:

A rigid substrate;

a composite pad comprising a non-impregnable layer made of non-reticulated elastomeric foam material and an impregnable layer made of reticulated material;

a cover skin disposed over and bonded to the substrate and the pad; wherein at least a portion of the rigid substrate is present throughout the impregnable layer; and wherein at least a portion of the rigid substrate is adjacent to the sides of the impregnable layer.

12. Claims 18-20, 25-27, 32-34 and 37-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the prior art discloses or suggests an automobile interior molded panel comprising:

a rigid substrate;

a composite pad comprising a non-impregnable layer made of non-reticulated elastomeric foam material and an impregnable layer made of reticulated material or porous material;

a cover skin disposed over and bonded to the substrate and the pad; wherein at least a portion of the rigid substrate is present throughout the impregnable layer or wherein at least a portion of the rigid substrate is adjacent to the sides of the impregnable layer.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on M,T,Th, F, 7:00-4:30 and on alternating Wednesdays.

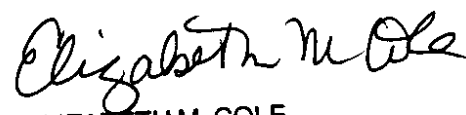
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the
Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HV


ELIZABETH M. COLE
PRIMARY EXAMINER